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NORTH AMERICAN REVIEW.

No. CCCXXXIII.

AUGUST, 1884.

THE ENCROACHMENTS OF CAPITAL.

It is one of the maxims of Machiavelli, in which most public writers and jurists agree, that in order to preserve soundness and health, all nations should often go back to first principles. And the reason he gives is that each form of government is usually framed in the outset on the principles which belong to its best condition, and that all departures to any serious extent are unnatural, and therefore dangerous. This notion is more familiar to practical statesmen than to theoretical reformers, for these are very apt to insist on putting in the frame-work what, if of any use at all, is only a temporary device, in no way essential to national life. We have our periodical fits of fidgety doubts and fears, and society is alarmed by ideas of ruin and disruption, as agitators come out with threats or prophecies of evil. But the same shrewd observer, looking back over history, declared that the multitude, with all its shortcomings, is wiser and more constant than princes. And inasmuch as every people must have a government of some kind, and must, at any rate, fix by choice or acquiescence the rule under which they live, we have no great reason to feel anxious that our social scheme will be much disturbed by any such troubles as timid people look for. We have had what is usually a thorough test in civil war, and as it resulted

in no change in the general principles of government on either side, during or since the war, we may be confident that whatever ills may come, they will have to be met and disposed of by the means belonging to a mixed republic, according as they attack our general or local prosperity.

The turmoil of election year is pretty certain to magnify all the disturbing influences in the eyes of a large class of political enthusiasts. And it so happens that in other countries as well as here an impression has been produced that elements of social mischief exist, which are as dangerous as the dynamite and weapons of the agitators. But for some reason the mass of the community display no trepidation, and look on these threats and demonstrations as presenting no novelty in principle, and foreboding no danger that society may not adequately resist. The things which seem so full of future woe to many earnest and uneasy minds are the supposed tendencies toward anarchy and revolution, produced by the relations of property and those who lack it. Good men groan at the apathy of the stupid public, who go quietly on their way and pay no heed to the flood of which they are warned. And so, in their concern, they volunteer not only moral and religious warnings, which are always worthy of respect, but also their views of political reforms, upon which there is always room for honest doubt. But of this there is no doubt, that whatever may be its apparent obtuseness in appreciating the rhetoric and logic of speakers and writers, who address and perhaps convince audiences that get their political sustenance in that way, the great undemonstrative body that makes the nation has instincts so keen and sensitive that no political sagacity can outstrip them. Universal zeal can seldom be excited on questions of policy upon which wise men differ. But the appreciation of what is vital to society itself and the security of its members, is the inheritance of all reasonable men alike, and if it is blunted in any one, it is more likely to be so in those who put their faith in political nostrums than in plainer and simpler minds. Here the aggregate wisdom is greater than any individual wisdom, and the aggregate will bears down all opposition. It is easy to see that the public is not careless on these topics, although there are no signs of panic. The danger is greater to those who encroach on the general rights than to the public itself. But some of the evils may need rough usage, and, if prolonged, will provoke it.

The mischief most dwelt upon is the supposed malign influence of great wealth in making private property and private comfort subject to grasping private or corporate interests.

The combinations of labor against employers, and of employers against laborers, do not affect so many people directly. But proceedings which may burden any one, or subject his property to encroachment, or his quiet to disturbance, operate more generally through the community. The history of revolutions is largely a history of resistance to obnoxious encroachments and burdens. The constitutions of free governments are chiefly made to prevent them. There is nothing of which men are more jealous, or on which their minds have for centuries been more clearly made up. The learned historian, Augustin Thierry, after completing his research into the history of the French municipalities, thus expressed himself concerning the wisdom and constancy of the citizens, whose descendants were not so fortunate as those of their British neighbors: "Our ancestors of the middle ages had, as we must acknowledge, something which to-day we lack,—that faculty of the statesman and of the citizen which consists in knowing clearly what he wishes and cherishing his determination within him long and persistently." The development in France of a central tyranny that checked the nobles in their relations with the crown, but protected them in their domestic abuses, put off the day of reckoning for the oppression of that people, until the Revolution swept away, for a time, good and bad together. It cannot be said that we have any abuses that need a revolution to destroy them. Any disregard of weak interests is not so much due to imperfect laws as to laxity in enforcing good laws. It is true that courts have not been blameless in drifting into doctrines that do not harmonize with the spirit of our political constitutions. In the mutual evasions of responsibility by legislators casting their burdens on the courts, and courts assuming that legislative conclusions must be correct, results have frequently been reached that do not satisfy the sense of the people. Constitutional amendments are sometimes declared necessary to secure protection which most people supposed had been assured already. But all these remedies are possible, and will come when urgently demanded. There is, however, some reason for considering, with a little anxiety, the causes that have led to disturbances in public serenity, and also to obtuseness in the

public authorities in not perceiving the existence of discontent. And it is for many reasons unfortunate that neither the legislature nor the press reflects the public feeling on many subjects until it is emphatically expressed.

It is too familiar to need dwelling upon that our own Revolution was chiefly due to the fact that the English Parliament did not understand the American people. No one who has carefully studied the subject now supposes that representation there, by such members as our population would have warranted, would have made any difference. Our colonial agents were men who had far more personal weight and influence than the average English country members. The British Parliament has always been remarkably sensitive to public opinion, and has generally represented it fairly. But it is that opinion which has local operation and local expression at the seat of Parliament. London has for this purpose been more truly Great Britain than Paris ever was France. The London press has always been singularly able and outspoken. It may not always give wise counsel, because it is, after all, representative, and the opinion it represents is British opinion. But it does represent that, and usually the majority of voices in Parliament will echo it. The present state of things is exceptional. Mr. Gladstone is not the only minister who has defied public opinion, but he is almost the only one in recent times who has dragooned a majority of Parliament into sustaining him in it for the lack of any representative man to supplant him. The position of Irish and Scotch interests, represented in both houses, indicates clearly enough that the opinion of Parliament is not made up to any great extent within its walls, although on occasion it may be.

It is a fact, though not very satisfactory to contemplate, that our legislative assemblies, either at Washington or in State capitals, are not only very poor tests of public opinion, but are not very sensitive to it, although they mean to follow it. To come no nearer to our own day, all who remember the relations of Mr. Lincoln with Congress, and the fact that his second nomination was the result of an overwhelming popular sentiment which swept away an opposition that was strong in Congress and not strong anywhere else, must recollect how utterly confounded some very able men were by a feeling that was as plain as day to most men out of Congress. While the convocation of those who represent us in law is theoretically our repre-

sentative in sentiment, it would never occur to any one who wishes to know what is the conviction of the body of the people concerning men or measures, to go to Washington to inquire. It is only learned foreigners, who desire to study our institutions, that suppose the affairs of the nation are governed by a series of deputized expressions originating in the town meetings and working upward. The primaries are diligently cultivated to secure votes for men, but no American politician troubles himself about their opinions on measures, for they seldom have any, and if they had, they would probably not be those of the body of voters. Measures are considered in making platforms, but even those are not made very prominent during the intervals between elections.

In spite of the improved means of communication, there is a noticeable difference between the Washington of simpler times and the Washington of to-day. The "National Intelligencer," representing the Whigs, and the "Globe," representing the Democrats, were for a considerable period the most influential papers in the United States. But very few people now care to take a Washington paper, and not very many know what papers circulate there. In our large commercial cities there were also journals that were confidently looked to as representing the views of entire parties. But there are no such papers now. The means of rapid transit have apparently done more to build up the local press than to concentrate sentiments and influence. There never was a time when more uncertainty existed concerning the real condition of public opinion than since we have had the means of rapid communication. The first act of the war found many of our public men in fear and trembling lest public opinion in the North should be divided, but brought such a revolution of settled conviction and enthusiasm on the part of the entire population as showed there never had been any popular doubts. It is just as certain now as then that there is everywhere, except among those who have an idea that they are wiser than the multitude, a well-defined understanding of free institutions, and a settled dislike to all that perverts them. And the reason why there is more or less jealousy of financial power is because it not only has capabilities of mischief, but because mischief has to some extent been done. There is no blind or senseless enmity to enterprise and its rewards. All crusades against the rights of property are utterly opposed to the whole instincts of the

American people. If they are wrong on this subject, it is in the other direction, in giving indiscriminate privileges without imposing adequate checks on their abuse. But there is a feeling that every instrument which can be made powerful for evil as well as for good requires some regulation.

By the law of most countries, as handed down by long usage, there has usually been a penalty against the various forms of monopoly. Legislatures and other public agencies are still forbidden to grant them. But an idea has gained currency almost universally that it would be an unreasonable tampering with the laws of trade to interfere with private monopolists. In most of our cities ordinances are enforced against forestalling and similar attempts to affect prices in such articles as are sold in the stalls; but combinations on a larger scale are let alone, and, although still common law offenses, are never prosecuted. And yet there is a very extended and very bitter feeling, that some of these days will be expressed in some way, in a milder form, it is to be hoped, than by mob violence, against those gambling transactions in grain and other domestic commodities which disturb prices without any reference to the laws of supply and demand, and are felt now and then by the poor very oppressively. The continuance of these evils has led to a feeling that public justice is sometimes a respecter of persons. The practice prevailing in some States of dispensing with grand juries has removed a most efficient safeguard to citizens who are timid about complaining individually of powerful offenders. Jurors solve doubts against corporations from a feeling which is no doubt in most cases an unjust prejudice, but which is often provoked by the arrogance of corporate representatives of high or low degree in dealing with citizens and in making litigation expensive. The voter who knows that corporate franchises here are usually given and not paid for, has a keen sense of their abuses, which, so far as they are technically legal, are due largely to legislative carelessness, or exist because the legislature has been misled. A grievance that has created much resentment is the needless appropriation of private lands and the injury to adjacent lands by various forms of public works. In not a few cases such enterprises have no good reason for existence, and would never have been allowed if the public had had any voice in their location. And whether the price paid for land taken is adequate or inadequate, the soreness exists where there is any sense of

wrong. The outrageous practice which fails to provide any remedy for those incidental damages to lands not taken, which are far worse than the mere use of land, has also its share in producing the general discontent.

A similar mischief has been felt in cities. As a matter of fact, the government of many of our cities is not in the hands of the wealthy, or even of those who owe them any particular favors. But there is the same sentiment of helplessness against the aggregate power and of dislike for its abuses. The average common council is perpetually legislating. They meddle with the ordinary uses of private property. They change established grades, lay out streets that are not needed, to benefit some particular interest, and alleys that make it impossible to find lots deep enough for the exigencies of business. They are continually tearing up and improving at the expense of those who are not supposed to know their own interest. The burdens of these changes bear cruelly upon persons of small means whose home is their only wealth, and who sometimes are compelled to forfeit it to pay for what in theory should have enhanced its value. And our legislatures, instead of using diligence to regulate municipal authority, often refuse to listen to any reforms that do not originate with the bodies that need reforming. Opposition to extravagance is so often set down as mere dislike to improvement, that many complaints are silenced by timidity, which only increases the sense of injustice.

There is a prevailing feeling that wealth has an undue influence in our public affairs. Election expenditures are regarded as legitimate which are beyond the power of any but the rich; and there is a conviction that time is spent in the interest of moneyed enterprises which should be devoted to the general welfare. Lands are allowed to be monopolized by corporations not subject to local laws. Towns are left without outlets, to enable new ones to be built up for the benefit of neither public nor shareholders. Streams are put under special control with small regard to the riparian inhabitants. The individual is becoming helpless to cope with aggregate rivalry or aggregate opposition. There is a feeling that the popular representation is getting more remote from popular sympathy, and has not as much regard as it ought to have for interests which are not influential.

Some of the jealousies are ill-founded, but many of them are not. The history of republics has been full of illustrations of the

danger of giving financial interests too large a control in public affairs. And, rightly or wrongly, there is a large amount of distrust among people who not only have a right to be heard, but who will sooner or later exercise it.

The complaints which need most attention do not come from radicals and disorganizers, but from those steady citizens who are our best guards against them. The remedies sought for are not agrarian laws or nihilistic schemes, but greater respect for private rights. It will not do to waste words in platitudes that demonstrate that our system already secures them. The best constitutions give powers that are capable of oppressive uses. We would all spurn the old Saxon rule which measured the cost of crime and outrage by the victim's wealth. But any system which allows small or moderate interests to be subjected to larger interests, involving no public advantage, belongs to the same category. The theory of our Government ranks men above things, and natural persons over artificial ones. The encroachments of irresponsible power are not altogether imaginary. Laws may not always prevent them, but sound policy may keep them from becoming dangerous. It would be a serious mischief if the uneasiness which is now found among reasonable men, without regard to party lines, should be driven to making common cause with doctrinaires to get things righted.

JAMES V. CAMPBELL.